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SENATE BILL 1022

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

PETE CAMPOS

AN ACT

RELATING TO ELECTIONS; AMENDING AND ENACTING SECTIONS OF THE  
MUNICIPAL ELECTION CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Municipal Election Code is  
enacted to read:

" [NEW MATERIAL] ABSENTEE BALLOT-- CONDUCT OF ELECTION-- WHEN  
NOT TIMELY RECEIVED-- EMERGENCY PROCEDURE FOR VOTING AND  
COUNTING. --

A. Any applicant for an absentee ballot who has not  
received the absentee ballot by mail as of the date of the  
election may present himself at his assigned precinct polling  
place and, after executing an affidavit of nonreceipt of  
absentee ballot, shall be permitted to vote on an emergency  
paper ballot or a marksense ballot.

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[bracketed material] = delete

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[bracketed material] = delete

1           B. The completed ballot shall be placed in an  
2 official inner envelope substantially as prescribed by Section  
3 3-9-6 NMSA 1978 and sealed. The official inner envelope shall  
4 then be placed in an official envelope substantially as  
5 prescribed for a transmittal envelope or mailing envelope in  
6 Section 3-9-6 NMSA 1978. This envelope shall contain a form on  
7 its back that identifies the voter by name and signature roster  
8 number and the printed statement to the effect that the voter  
9 made application for an absentee ballot but had not received it  
10 as of the date of the election and is permitted to vote by  
11 emergency paper ballot or a marksense ballot.

12           C. The presiding judge shall put all such ballots in  
13 a special envelope provided for that purpose by the municipal  
14 clerk, seal it and return it to the municipal clerk along with  
15 the machine tally sheets. The sealed envelope shall not be put  
16 in the locked ballot box.

17           D. Upon receipt of the envelope containing such  
18 ballots, the municipal clerk, no later than forty-eight hours  
19 after the close of the election, shall remove the transmittal  
20 envelopes and without removing or opening the inner envelopes,  
21 determine that:

22                   (1) such voter did in fact make application for  
23 an absentee ballot; and

24                   (2) no such absentee ballot was received by the  
25 municipal clerk from the voter by 7:00 p.m. on election day.

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1           E. Upon making such determination, the municipal  
2 clerk shall remove the inner envelope without opening it,  
3 destroy the transmittal envelope and place the inner envelope in  
4 a secure place to be transmitted to the municipal canvassing  
5 board to be tallied and included in the canvass of that  
6 municipality for the appropriate precinct.

7           F. The municipal clerk shall prescribe and furnish  
8 the necessary envelopes for purposes of this section and shall  
9 adopt rules and regulations deemed necessary to preserve the  
10 secrecy of the ballot."

11           Section 2. A new section of the Municipal Election Code is  
12 enacted to read:

13           "[NEW MATERIAL]   ADDITIONAL EMERGENCY PROCEDURE FOR  
14 VOTING. --

15           A. After the close of the period for requesting  
16 absentee voter ballots by mail, any voter unable to go to the  
17 polls due to unforeseen illness or disability resulting in his  
18 confinement in a hospital, sanitarium, nursing home or residence  
19 who is unable to vote at his polling place, voting booth or  
20 voting apparatus or machinery may request in writing that an  
21 alternative ballot be made to be made available to him. The  
22 written request shall be signed by the voter and a health care  
23 provider under penalty of perjury.

24           B. The alternative ballot shall be made available by  
25 the municipal clerk where the voter resides to any authorized

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1 voter who has presented the written request to the office of the  
2 clerk.

3 C. Before releasing the alternative ballot, the  
4 municipal clerk shall compare the signature on the written  
5 request with the signature on the voter's affidavit of  
6 registration. If the municipal clerk determines that the  
7 signature on the written request is not the signature of the  
8 voter, the request for the alternative ballot shall be rejected.

9 D. The voter shall mark the alternative ballot,  
10 place it in an identification envelope similar to that used for  
11 absentee ballots, fill out and sign the envelope and return the  
12 ballot to the office of the municipal clerk where the voter  
13 resides no later than the time of closing of the polls on  
14 election day. The voter's name shall be compared to the roster  
15 of voters and the ballot shall be counted only if there is no  
16 signature for that voter on the roster of the precinct where the  
17 voter's name appears.

18 E. Alternative ballots shall be processed and  
19 counted in the same manner as absentee ballots.

20 F. The municipal clerk shall prescribe the form of  
21 alternative ballots. "

22 Section 3. Section 3-8-2 NMSA 1978 (being Laws 1985,  
23 Chapter 208, Section 10) is amended to read:

24 "3-8-2. DEFINITIONS. --

25 A. The definitions in Section 3-1-2 NMSA 1978 shall

1 apply to the Municipal Election Code in addition to those  
2 definitions set forth in the Municipal Election Code.

3 B. As used in the Municipal Election Code:

4 (1) "absentee voter list" means the list  
5 prepared by the municipal and county clerks of those persons who  
6 have been issued an absentee ballot;

7 (2) "ballot" means a system for arranging and  
8 designating for the voter the names of candidates and other  
9 questions to be voted on and for the marking, casting or  
10 otherwise recording of such votes, and the term includes  
11 absentee ballots, ballot labels, emergency paper ballots and  
12 paper ballots used in lieu of voting machines;

13 (3) "ballot label" means that portion of  
14 cardboard, paper or other material placed on the front of the  
15 voting machine containing the names of the candidates, the  
16 offices the candidates are seeking and a statement of the  
17 proposed questions to be voted upon;

18 (4) "clerk" or "municipal clerk" means the  
19 municipal clerk or any deputy or assistant municipal clerk;

20 (5) "county clerk" means the clerk of the  
21 county or his designee within which the municipality is located;

22 (6) "election returns" means all certificates  
23 of the precinct board, including but not limited to the  
24 certificate showing the total number of votes cast for each  
25 candidate, if any, and for or against each question, if any, and

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1 shall include statements of canvass, signature rosters,  
2 registered voter lists, machine printed returns, emergency paper  
3 ballots, paper ballots used in lieu of voting machines, absentee  
4 ballots, absentee ballot registers and absentee voter [~~list~~]  
5 lists or absent voter machine printed returns;

6 (7) "emergency paper ballot" means the paper  
7 ballot used when a voting machine becomes disabled so that a  
8 voter is unable to cast a vote for all of the candidates and  
9 questions of the voter's choice and have such vote correctly  
10 recorded by the voting machine, and when no substitute voting  
11 machine is available;

12 (8) "precinct" means a portion of a county  
13 situated entirely in or partly in a municipality which has been  
14 designated by the county as a precinct for election purposes and  
15 which is entitled to a polling place and a precinct board. If a  
16 precinct includes territory both inside and outside the  
17 boundaries of a municipality, then "precinct", for municipal  
18 elections, shall mean only that portion of the precinct lying  
19 within the boundaries of the municipality;

20 (9) "consolidated precinct" means the  
21 combination of two or more precincts pursuant to the Municipal  
22 Election Code;

23 (10) "precinct board" means the appointed  
24 election officials serving a single or consolidated precinct;

25 (11) "recheck" pertains to voting machines and

1 means a verification procedure where the counter compartment of  
2 the voting machine is opened and the results of the balloting as  
3 shown on the counters of the machine are compared with the  
4 results shown on the official returns; and

5 (12) "recount" pertains to emergency paper  
6 ballots, paper ballots used in lieu of voting machines and  
7 absentee ballots and means a retabulation and retallying of  
8 individual ballots."

9 Section 4. Section 3-8-7 NMSA 1978 (being Laws 1965,  
10 Chapter 300, Section 14-8-5, as amended) is amended to read:

11 "3-8-7. MUNICIPAL CLERK--COUNTY CLERK--ELECTION  
12 DUTIES. --

13 A. The municipal clerk shall:

- 14 (1) administer the municipal election;  
15 (2) with the consent of the governing body,  
16 secure the necessary polling places;  
17 (3) see that all necessary supplies and  
18 equipment are present at each polling place prior to the opening  
19 of the polls on the day of the election;  
20 (4) certify voting machines;  
21 (5) conduct an election school for precinct  
22 board members as required in Section 3-8-21 NMSA 1978; [and]  
23 (6) keep the office of the municipal clerk open  
24 on election day for the purpose of receiving ballot boxes,  
25 election returns and materials until all election returns and

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1 materials are received; and

2 (7) within fifteen days of the holding of any  
3 municipal election, forward to the county clerk a listing of all  
4 individuals voting in the municipal election.

5 B. Within fifteen days of the adoption of the  
6 election resolution, the municipal clerk shall request in  
7 writing from the county clerk the registered voter lists and  
8 signature rosters containing only the qualified electors  
9 eligible to vote in the municipal election. At least seven days  
10 prior to every municipal election, the county clerk shall  
11 furnish to the municipal clerk the registered voter list and  
12 signature roster containing only the qualified electors eligible  
13 to vote in the municipal election. A municipal clerk shall not  
14 amend, add or delete any information to or from the registered  
15 voter list except as otherwise provided by law. The registered  
16 voter list shall constitute the registration list for the  
17 municipal election. The registered voter list does not have to  
18 be returned to the county clerk. The municipality shall bear  
19 the reasonable cost of preparation of the voter lists and  
20 signature rosters. "

21 Section 5. Section 3-8-10 NMSA 1978 (being Laws 1985,  
22 Chapter 208, Section 18) is amended to read:

23 "3-8-10. CONSOLIDATION OF PRECINCTS. --

24 A. [~~In the interest of economy~~] Any precinct [~~where~~  
25 ~~the total votes cast in person in that precinct in the last~~

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1 ~~preceding regular municipal election was less than six hundred]~~  
2 may be combined with one or more adjacent and contiguous  
3 precincts by the governing body [~~No such combination shall be~~  
4 ~~made where the total vote cast in person in all precincts~~  
5 ~~proposed to be consolidated in the last preceding regular~~  
6 ~~municipal election exceeded one thousand]~~ when the municipal  
7 clerk determines that consolidation is in the best interest of  
8 those precincts and will not compromise the orderly and  
9 efficient conduct of the election.

10 B. Precincts may be consolidated in any regular or  
11 special municipal election, including bond elections, except  
12 when prohibited by law. "

13 Section 6. Section 3-8-14 NMSA 1978 (being Laws 1985,  
14 Chapter 208, Section 22, as amended) is amended to read:

15 "3-8-14. VOTING MACHINES-- ORDERING-- PREPARATION--  
16 CERTIFICATION-- DELIVERY. --

17 A. If voting machines are to be used, the municipal  
18 clerk shall order the machines from the county clerk within  
19 fifteen days of the adoption of the election resolution, and the  
20 county clerk shall supply such voting machines pursuant to  
21 Section 1-9-6 NMSA 1978. The county shall provide voting  
22 machine technicians, voting machine programming and voting  
23 machine transportation and the municipality shall pay the  
24 reasonable fee charged by the county for such services and the  
25 use of the voting machines, but in no case in an amount which

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1 exceeds the actual cost to the county pursuant to Section  
2 1-9-12 NMSA 1978.

3 B. If voting machines are to be used, the municipal  
4 clerk shall order at least one voting machine for every polling  
5 place; provided that the clerk shall order a sufficient number  
6 of voting machines to assure that the eligible voters in that  
7 polling place shall be able to vote in a timely manner.

8 C. ~~[The municipal clerk shall deliver the printer  
9 packs and voting machine strips to the county clerk within two  
10 days after receipt. The county clerk, within fifteen days of  
11 receipt of the printer packs and voting machine strips, shall:~~

- 12 (1) ~~insert the voting machine strips;~~  
13 (2) ~~program the voting machines;~~  
14 (3) ~~test each counter for accuracy by casting  
15 votes upon it until it correctly registers each vote cast;~~  
16 (4) ~~set all counters at zero; and~~  
17 (5) ~~notify the municipal clerk of the date,  
18 time and place for inspection and certification of the voting  
19 machines, which notification shall be not less than twelve hours  
20 prior to the time for inspection and certification]~~ Programming  
21 of vote tabulating machines shall be performed under the  
22 supervision of the municipal clerk and the county clerk. The  
23 machines shall be programmed so that votes will be counted in  
24 accordance with specification for electronic voting machine  
25 adopted by the secretary of state.

1           D. Immediately upon receipt of the notice of date,  
2 time and place of inspection and certification, the municipal  
3 clerk shall post such notice in the office of the municipal  
4 clerk and attempt to telephone the candidates at the phone  
5 number listed on the declaration of candidacy to give each  
6 candidate notice of the date, time and place of inspection and  
7 certification.

8           E. Inspection and certification shall occur not  
9 later than seven days prior to the election and shall be open to  
10 the public.

11           F. At the date, time and place for inspection and  
12 certification, in the presence of the county clerk and those  
13 municipal candidates present, if any, the municipal clerk shall:

14                   (1) test each counter for accuracy by casting  
15 votes upon it until it correctly registers each vote cast;

16                   (2) test each voting machine to assure that it  
17 has been correctly programmed; and

18                   (3) inform the county clerk when each machine  
19 is satisfactory and ready to be certified.

20           G. If the municipal clerk informs the county clerk  
21 that a machine is satisfactory and ready to be certified, then:

22                   (1) the county clerk shall reset each counter  
23 at zero;

24                   (2) the county clerk shall insert the printer  
25 pack into the machine;

1 (3) the voting machine shall be immediately  
2 sealed with a numbered metal seal so as to prevent operation of  
3 the machine or its registering counters without breaking the  
4 seal;

5 (4) the municipal clerk shall prepare a  
6 certificate in triplicate for each machine that shall:

7 (a) show the serial number of the voting  
8 machine;

9 (b) state that the voting machine has all  
10 of its resettable registering counters set at zero;

11 (c) state that the machine has been  
12 tested by voting on each registered counter to prove the counter  
13 is in perfect condition;

14 (d) show the number of the metal seal  
15 that has sealed the machine; and

16 (e) show the number registered on the  
17 protective counter;

18 (5) a copy of the certificate shall be  
19 delivered to the county clerk, the original certificate shall be  
20 filed in the office of the municipal clerk and one copy shall be  
21 posted on the voting machine; and

22 (6) if the voting machine requires keys, the  
23 keys to the voting machine shall be enclosed in a sealed  
24 envelope on which shall be written:

25 (a) the number of the precinct and

1 polling place to which the machine is assigned;

2 (b) the serial number of that voting  
3 machine;

4 (c) the number of the metal seal that has  
5 sealed the voting machine;

6 (d) the number registered on the  
7 protective counter; and

8 (e) across the seal of the envelope, the  
9 signatures of the county clerk, the municipal clerk and all  
10 candidates present, if any, at the inspection and certification.

11 H. After certification of the voting machines, if  
12 the voting machines require keys, the county clerk shall keep  
13 the keys to the voting machines in his custody and shall deliver  
14 the keys to the municipal clerk when the voting machines are  
15 delivered for election. The municipal clerk shall secure in the  
16 office of the municipal clerk all the envelopes containing the  
17 keys to the voting machines until delivered to the presiding  
18 judge of the election.

19 I. An objection to the use of a particular voting  
20 machine shall be filed in the district court within two days  
21 after the machine has been certified. Any objection so filed  
22 shall specify the number of the voting machine objected to and  
23 the reason for the objection. Each voting machine shall be  
24 conclusively presumed to be properly prepared for the election  
25 if it has been certified, unless a timely objection has been

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1 filed.

2 J. Voting machines certified in accordance with this  
3 section shall be delivered to the assigned precinct polling  
4 place no earlier than five days prior to the election and no  
5 later than noon on the day prior to the election.

6 K. The municipal clerk shall refuse to certify any  
7 voting machine that the municipal clerk determines is not  
8 programmed properly, is not working properly or will not fairly  
9 or accurately record votes. Only voting machines that have been  
10 certified by the municipal clerk shall be used in the election."

11 Section 7. Section 3-8-16 NMSA 1978 (being Laws 1985,  
12 Chapter 208, Section 24) is amended to read:

13 "3-8-16. PAPER BALLOTS IN LIEU OF VOTING MACHINES--  
14 EMERGENCY PAPER BALLOTS--FORM-GENERAL REQUIREMENTS.--As used in  
15 this section, "paper ballots" means paper ballots used in lieu  
16 of voting machines and emergency paper ballots. Paper ballots  
17 shall be in the form prescribed by the municipal clerk, which  
18 shall conform to the following rules.

19 A. Paper ballots shall:

20 (1) be numbered consecutively beginning with  
21 number one. The number shall be printed in the upper right-hand  
22 corner of the ballot with a diagonal perforated line  
23 appropriately placed so that the portion of the ballot bearing  
24 the number in the upper right-hand corner may be readily and  
25 easily detached from the ballot;

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- 1 (2) be uniform in size;
- 2 (3) be printed on good quality paper;
- 3 (4) be printed in plain black type; ~~[and]~~
- 4 (5) have all words and phrases printed
- 5 correctly and in their proper places; and
- 6 (6) have district and precinct, if applicable.

7 B. The following heading shall be printed on each  
8 paper ballot used in all municipal elections:

9 "OFFICIAL ELECTION BALLOT  
10 Election held . . . . . (insert date)".

11 C. If the election is a regular municipal election,  
12 then the paper ballot shall be prepared consistent with the  
13 requirements of ~~[Subsections A through E of]~~ Section 3-8-29 NMSA  
14 1978. In addition, next to each candidate's name shall appear  
15 an empty box to be used when voting for that candidate. ~~[Below~~  
16 ~~the candidates' names for each office shall appear the heading~~  
17 ~~"Write-In Candidates"]~~ Where space is allowed on a paper ballot  
18 for entering the name of a declared write-in candidate, that  
19 space shall be clearly designated by the use of the heading  
20 "Write-in Candidate". Below the heading shall appear one line,  
21 with a box to the right of the line, for each individual office  
22 holder to be elected. Below the last candidate's name shall  
23 appear any question presented, in the order designated by the  
24 governing body.

25 D. If the election is a special municipal election,

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1 then questions presented shall be placed on the paper ballot in  
2 the order designated by the governing body.

3 E. Next to each question presented on a paper ballot  
4 shall appear two empty boxes, one labeled "FOR" and the other  
5 [~~labeled~~] labeled "AGAINST".

6 F. At the bottom of all paper ballots shall be  
7 printed: "OFFICIAL ELECTION BALLOT", followed by a facsimile  
8 signature of the ~~municipal~~ clerk."

9 Section 8. Section 3-8-19 NMSA 1978 (being Laws 1971,  
10 Chapter 306, Section 8, as amended) is amended to read:

11 "3-8-19. PRECINCT BOARDS--APPOINTMENTS--COMPENSATION.--

12 A. In order to qualify as a member of the precinct  
13 board, a person shall:

14 (1) be a resident qualified elector of the  
15 municipality and a resident of the precinct or consolidated  
16 precinct within the jurisdiction of the precinct board.

17 However, if there is a shortage or absence of precinct board  
18 members in certain precincts or consolidated precincts, then a  
19 person who is a resident qualified elector of the municipality  
20 and a nonresident of the precinct or consolidated precinct may  
21 be appointed;

22 (2) be able to read and write;

23 (3) have the necessary capacity to carry out  
24 the functions of the office with acceptable skill and dispatch;  
25 and

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1 (4) execute the precinct board member's oath of  
2 office.

3 B. No person shall be qualified for appointment or  
4 service on a precinct board if that person is a:

5 (1) candidate for any municipal office;

6 (2) spouse, parent, child, brother or sister of  
7 any candidate to be voted for at the election;

8 (3) sheriff, deputy sheriff, marshal, deputy  
9 marshal, state or municipal policeman;

10 (4) spouse, parent, child, brother or sister of  
11 the municipal clerk or any deputy or assistant municipal clerk;  
12 or

13 (5) municipal clerk or deputy or assistant  
14 municipal clerk.

15 C. Not less than thirty-five days before the day of  
16 the municipal election, the governing body shall appoint a  
17 precinct board for each polling place. The precinct board shall  
18 consist of [~~three election judges, two of whom may also be~~  
19 ~~appointed as election clerks; two election clerks; and~~] no fewer  
20 than three and no more than five members. Each board shall have  
21 no fewer than three election judges and no fewer than two  
22 election clerks. Election judges may also be appointed as  
23 election clerks. Not less than two alternates shall be  
24 appointed who shall become either election judges or election  
25 clerks or both as the need arises. On the thirty-fifth day

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1 before the day of the election, the municipal clerk shall post  
2 and maintain in the clerk's office until the day of the election  
3 the names of the election judges, election clerks and alternates  
4 for each polling place. The posting of the names of the  
5 election judges, election clerks and alternates for each polling  
6 place may be proved by an affidavit signed by the municipal  
7 clerk. The municipal clerk shall, by mail, notify each person  
8 appointed, request a written acceptance and keep a record of all  
9 notifications and acceptances. The notice shall state the date  
10 by which the person must accept the appointment. If any person  
11 appointed to a precinct board, or as an alternate, fails to  
12 accept an appointment within seven days after the notice is  
13 sent, the position shall be deemed vacant and the position shall  
14 be filled as provided in this section.

15 D. The county clerk shall furnish upon request of  
16 the municipal clerk the names and addresses of qualified  
17 precinct board members for general elections, and such precinct  
18 board members may be appointed as precinct board members for  
19 municipal elections.

20 E. The municipal clerk shall appoint a qualified  
21 elector as a precinct board member to fill any vacancy which may  
22 occur between the day when the list of precinct board members is  
23 posted and the day of the election. If a vacancy occurs on the  
24 day of the election, the precinct board members present at the  
25 polling place may appoint by a majority vote a qualified elector

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1 to fill the vacancy. If the vacancy was filled after the date  
2 of the election school, then that person need not attend an  
3 election school in order to validly serve on the precinct board.

4 F. Members of a precinct board shall be compensated  
5 for their services at the rate provided in Section 1-2-16 NMSA  
6 1978 for the day of the election. The governing body may  
7 authorize payment to alternates who are required by the precinct  
8 board or municipal clerk to stand by on election day at the rate  
9 of not more than twenty dollars (\$20.00) for the day of the  
10 election.

11 G. Compensation shall be paid within thirty days  
12 following the date of election. "

13 Section 9. Section 3-8-26 NMSA 1978 (being Laws 1965,  
14 Chapter 300, Section 14-8-4, as amended) is amended to read:

15 "3-8-26. REGULAR MUNICIPAL ELECTION-- ~~[NOTICE]~~ PUBLICATION  
16 OF RESOLUTION-- CHOICE OF BALLOTS OR VOTING MACHINES. --

17 A. Not earlier than one hundred and twelve days  
18 ~~[nor]~~ or later than eighty-four days prior to the date of a  
19 regular municipal election, the governing body shall adopt an  
20 election resolution calling for the regular municipal election.  
21 The election resolution shall be published in both English and  
22 Spanish and once within fifteen days of adoption and again not  
23 less than sixty days prior to the election ~~[nor]~~ or more than  
24 seventy-five days prior to the election, as provided in  
25 Subsection J of Section [3-1-2J] 3-1-2 NMSA 1978. In addition,

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1 the election resolution shall be posted in the office of the  
2 municipal clerk within twenty-four hours from the date of  
3 adoption until the date of the election. For information  
4 purposes and coordination, one copy of the election resolution  
5 shall be mailed within fifteen days of adoption to the secretary  
6 of state and the county clerk of the county in which the  
7 municipality is located.

8 B. The resolution shall state the date when the  
9 election will be held, the offices to be filled, the questions  
10 to be submitted to the voters, the date and time of the closing  
11 of the registration books by the county clerk as required by  
12 law, the date and time for filing the declaration of candidacy,  
13 the location of polling places and the consolidation of  
14 precincts, if any, notwithstanding any conflicting provisions of  
15 Section 1-3-5 NMSA 1978. Any question to be submitted to the  
16 voters in addition to the election of municipal officers may be  
17 included in the election resolution, but such inclusion shall  
18 not substitute for any additional or separate resolution or  
19 publication thereof as required by law.

20 C. In those municipalities allowed by law to use  
21 paper ballots, the election resolution shall also state whether  
22 paper ballots or voting machines will be used in the election. "

23 Section 10. Section 3-8-27 NMSA 1978 (being Laws 1965,  
24 Chapter 300, Section 14-8-8, as amended) is amended to read:

25 "3-8-27. REGULAR MUNICIPAL ELECTION--DECLARATION OF

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1 CANDIDACY-- WITHDRAWING NAME FROM BALLOT-- PENALTY FOR FALSE  
2 STATEMENT. --

3 A. Candidate filing day shall be between the hours  
4 of 8:00 a.m. and 5:00 p.m. on the fifty-sixth day preceding the  
5 day of election. On candidate filing day, a candidate for  
6 municipal office shall personally appear at the office of the  
7 municipal clerk to file all documents required by law in order  
8 to cause a person to be certified as a candidate.

9 Alternatively, on candidate filing day, a person acting solely  
10 on the candidate's behalf, by virtue of a written affidavit of  
11 authorization signed by the candidate, notarized and presented  
12 to the municipal clerk by such person, shall file in the office  
13 of the municipal clerk all documents required by law in order to  
14 cause a person to be certified as a candidate.

15 B. On candidate filing day, each candidate shall  
16 cause to be filed in the office of the municipal clerk [(1)] a  
17 declaration of candidacy and [(2)] a certified copy of the  
18 candidate's current affidavit of voter registration on file with  
19 the county clerk which has been certified by the office of the  
20 county clerk on a date not earlier than the adoption of the  
21 election resolution [or (3) ~~the triplicate copy of the~~  
22 ~~candidate's current affidavit of registration which has been~~  
23 ~~stamped by the office of the county clerk as accepted for filing~~  
24 ~~on a date not earlier than the adoption of the election~~  
25 ~~resolution~~].

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1 C. All candidates shall cause their affidavits of  
2 voter registration to show their address as a street address or  
3 rural route number and not as a post office box.

4 D. The municipal clerk shall provide a form for the  
5 declaration of candidacy and shall accept only those  
6 declarations of candidacy which contain:

7 (1) the identical name and the identical  
8 resident street address as shown on the affidavit of  
9 registration of the candidate submitted with the declaration of  
10 candidacy;

11 (2) the office and term to which the candidate  
12 seeks election and district designation, if appropriate;

13 (3) a statement that the candidate is eligible  
14 and legally qualified to hold the office for which the candidate  
15 is filing;

16 (4) a statement that the candidate has not been  
17 convicted of a felony or, if the candidate has been convicted of  
18 a felony, a statement that the candidate's elective franchise  
19 has been restored;

20 (5) a statement that the candidate or the  
21 candidate's authorized representative shall personally appear at  
22 the office of the municipal clerk during normal business hours  
23 on the fifty-fourth day before the election to ascertain whether  
24 the municipal clerk has certified the declaration of candidacy  
25 as valid;

1 (6) a telephone number at which the candidate  
2 or the candidate's authorized representative can be reached for  
3 purposes of giving telephone notice;

4 (7) a statement to the effect that the  
5 declaration of candidacy is an affidavit under oath and that any  
6 false statement knowingly made therein constitutes a fourth  
7 degree felony under the laws of New Mexico; and

8 (8) the notarized signature of the candidate on  
9 the declaration of candidacy.

10 E. The municipal clerk shall not accept a  
11 declaration of candidacy for more than one municipal elected  
12 office per candidate, so that each candidate declares for only  
13 one municipal elected office.

14 F. Once filed, the declaration of candidacy is a  
15 public record.

16 G. Not later than the fifty-fifth day preceding the  
17 day of the election, the municipal clerk shall determine whether  
18 the declaration of candidacy shall be certified. In order to be  
19 certified as a candidate, the documents submitted to the  
20 municipal clerk [~~must~~] shall prove that the individual is a  
21 qualified elector as defined in Subsection K of Section 3-1-2  
22 NMSA 1978 and, if appropriate, that the individual resides in  
23 and is registered to vote in the municipal election district  
24 from which the individual seeks election. In the event that an  
25 individual fails to submit to the municipal clerk on candidate

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1 filing day the documents listed in Subsection B of this section  
2 in the form and with the contents as required by this section,  
3 then the municipal clerk shall not certify that individual as a  
4 candidate for municipal office.

5 H. The municipal clerk shall post in the clerk's  
6 office a list of the names of those individuals who have been  
7 certified as candidates. The municipal clerk shall also post in  
8 the clerk's office the names of those individuals who have not  
9 been certified as candidates, along with all the reasons  
10 therefor. Such posting shall occur no later than 9:00 a.m. on  
11 the fifty-fourth day preceding the election.

12 I. Not later than 5:00 p.m. on the forty-ninth day  
13 before the day of the election, a candidate for municipal office  
14 may file an affidavit on the form provided by the municipal  
15 clerk in the office of the municipal clerk stating that he is no  
16 longer a candidate for municipal office. A municipal clerk  
17 shall not place on the ballot the name of any person who has  
18 filed an affidavit as provided in this subsection.

19 J. Not later than 10:00 a.m. on the forty-eighth day  
20 preceding the election, the municipal clerk shall confirm with  
21 the printer on contract with the municipality and the county  
22 clerk the names of the candidates and their position on the  
23 ballot.

24 K. Any person knowingly making a false statement in  
25 the declaration of candidacy is guilty of a fourth degree

1 felony.

2 L. No person shall be elected to municipal office as  
3 a write-in candidate unless that person has been certified as a  
4 declared write-in candidate by the municipal clerk, as follows:

5 (1) write-in candidates filing day shall be on  
6 the forty-second day preceding the election between the hours of  
7 8:00 a.m. and 5:00 p.m.;

8 (2) write-in candidates shall file a  
9 declaration of write-in candidacy with the same documents and  
10 satisfy the same requirements as established in this section for  
11 candidates;

12 (3) the municipal clerk shall, on the forty-  
13 first day preceding the election, certify those individuals who  
14 have satisfied the requirements of this section as declared  
15 write-in candidates;

16 (4) not later than 9:00 a.m. on the fortieth  
17 day preceding the election, the municipal clerk shall, in the  
18 office of the municipal clerk:

19 (a) post the names of those individuals  
20 who have been certified as declared write-in candidates; and

21 (b) post the names of those individuals  
22 who have not been certified as declared write-in candidates  
23 along with the reasons therefor; and

24 (5) not later than 5:00 p.m. on the twenty-  
25 eighth day preceding the election, a declared write-in candidate

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1 may file an affidavit that he is no longer a write-in candidate  
2 for municipal office. In the event that a declared write-in  
3 candidate files such an affidavit of withdrawal, any votes for  
4 such a candidate shall not be counted and canvassed. "

5 Section 11. Section 3-8-40 NMSA 1978 (being Laws 1985,  
6 Chapter 208, Section 48, as amended) is amended to read:

7 "3-8-40. CONDUCT OF ELECTION--PERSONS NOT PERMITTED TO  
8 VOTE--~~[TRIPLICATE OR]~~ CERTIFICATE VOTING--FRAUDULENT AND DOUBLE  
9 VOTING.--

10 A. No person shall vote in a municipal special or  
11 regular election unless that person is a qualified elector and  
12 he has appeared to vote at the polling place in the precinct or  
13 consolidated precinct which encompasses his place of residence  
14 as shown on the signature roster.

15 B. No person shall vote whose name and affidavit of  
16 registration number appears on the list of voters purged from  
17 the rolls unless that person has again completed an affidavit of  
18 registration and his name also appears on the signature roster.

19 C. Notwithstanding the provisions of Subsections A  
20 and B of this section, a person shall be permitted to vote even  
21 though that person's name cannot be found in the signature  
22 roster, provided:

23 (1) his residence is within the boundaries of  
24 the municipality and within the boundaries of the precinct in  
25 which he offers to vote;

1                   (2) his name is not on the purged list or his  
2 name has been incorrectly placed on the purged list;

3                   (3) his name is not on the list of persons  
4 having been issued absentee ballots;

5                   (4) ~~[he presents a triplicate affidavit of~~  
6 ~~registration which appears on its face to be valid or]~~ he  
7 presents a certificate bearing the seal and signature of the  
8 county clerk stating that his duplicate affidavit of  
9 registration is on file at the county clerk's office, that he  
10 has not been purged and that he shall be permitted to vote in  
11 the precinct and election specified therein, provided that such  
12 authorization shall not be given orally by the county clerk; and

13                   (5) he executes a statement swearing or  
14 affirming to the best of his knowledge that he is a qualified  
15 elector resident of the municipality, currently registered and  
16 eligible to vote in that precinct and has not cast a ballot or  
17 voted in the election.

18                   D. Upon compliance with the requirements of  
19 Subsection C of this section, the election judge shall cause the  
20 election clerks to:

21                   (1) write the person's name and address, as  
22 shown on the certificate ~~[or the triplicate affidavit of voter~~  
23 ~~registration]~~, in the signature roster under the heading for  
24 name and address in the first blank space immediately below the  
25 last name and address appearing in the signature roster;

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1 (2) insert the person's ballot number or voter  
2 number as shown on the public counter of the voting machine on  
3 ~~[the triplicate affidavit of voter registration or]~~ the  
4 certificate and on his executed sworn statement;

5 (3) retain the completed ~~[triplicate affidavit~~  
6 ~~of voter registration or]~~ certificate and the executed sworn  
7 statement, which shall be returned to the municipal clerk with  
8 the election returns; and

9 (4) comply with all relevant requirements of  
10 Section 3-8-41 NMSA 1978.

11 E. After canvass, the municipal clerk shall in  
12 writing notify the county clerk of the names of all individuals  
13 voting on triplicate affidavits of registration or certificates.

14 F. A person who knowingly executes a false statement  
15 required by Paragraph (5) of Subsection C of this section is  
16 guilty of perjury as provided in the Criminal Code of this  
17 state, and voting on the basis of such falsely executed  
18 statement constitutes fraudulent voting.

19 ~~[G. To be valid, a triplicate affidavit of~~  
20 ~~registration dated after June 30, 1955 shall bear the signature~~  
21 ~~stamp of the county clerk.]~~

22 H.] G. A person not entitled to vote who  
23 fraudulently votes or a person who votes or offers to vote more  
24 than once at any election is guilty of a fourth degree felony."

25 Section 12. Section 3-8-43 NMSA 1978 (being Laws 1985,

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1 Chapter 208, Section 51, as amended) is amended to read:

2 "3-8-43. CONDUCT OF ELECTION--CHALLENGES--REQUIRED  
3 CHALLENGES--ENTRIES--DISPOSITION. --

4 A. A challenge may be interposed by a member of the  
5 precinct board or by a challenger for the following reasons,  
6 which [~~must~~] shall be stated in an audible tone by the person  
7 making the challenge:

8 (1) the person offering to vote is not  
9 registered;

10 (2) the person offering to vote is listed on  
11 the purge list or is listed among those persons in the precinct  
12 to whom an absentee ballot was issued;

13 (3) the person offering to vote is not a  
14 qualified elector;

15 (4) the person offering to vote is not listed  
16 on the signature roster or voter registration list;

17 (5) in the case of an absentee ballot, if the  
18 official mailing envelope containing an absentee ballot has been  
19 opened prior to delivery of absentee ballots to the absent voter  
20 precinct board; or

21 (6) the person offering to vote is a qualified  
22 elector of the municipality but does not reside in the district  
23 where he is offering to vote.

24 B. When a person has offered to vote and a challenge  
25 is interposed and the person's name appears in the signature

1 roster or his name has been entered in the signature roster  
2 pursuant to Subsection D of Section 3-8-40 NMSA 1978, the  
3 election clerk shall write the word "challenged" above the  
4 person's signature in the signature roster.

5 (1) If the challenge is unanimously affirmed by  
6 the election judges, then:

7 (a) the election clerk shall write the  
8 word "affirmed" above the person's signature next to the  
9 challenge notation in the signature roster;

10 (b) the person shall nevertheless be  
11 furnished a paper ballot, whether or not voting machines are  
12 being used at the polling place, and the election clerk shall  
13 write the number of the ballot so furnished next to the person's  
14 signature in the signature roster;

15 (c) the person shall be allowed to mark  
16 and prepare the ballot. He shall return the paper ballot to an  
17 election judge who shall announce the person's name in an  
18 audible tone and in his presence place the challenged ballot in  
19 an envelope marked "rejected", which shall be sealed and the  
20 person's name shall be written on such envelope; and

21 (d) the envelope containing the rejected  
22 ballot shall then be deposited in the ballot box and shall not  
23 be counted.

24 (2) If the challenge is not unanimously  
25 affirmed by the election judges, then:

1 (a) the election clerks shall write the  
2 words "not affirmed" above the person's signature next to the  
3 challenge notation in the signature roster; and

4 (b) the person shall be allowed to vote  
5 in the manner allowed by law as if the challenge had not been  
6 interposed.

7 C. A required challenge shall be interposed by the  
8 precinct board when a person attempts to offer himself to vote  
9 and demands to vote and his name does not appear on the  
10 signature roster and cannot be entered pursuant to Subsection D  
11 of Section [~~30-8-40~~] 3-8-40 NMSA 1978. A required challenge  
12 shall be interposed by the precinct board as follows:

13 (1) the election judge shall cause the election  
14 clerks to enter the person's name and address under the heading  
15 "name and address" in the signature roster in the first blank  
16 space immediately below the last name and address that appears  
17 in the signature roster;

18 (2) the election clerk shall immediately write  
19 the words "required challenge" above the space provided for the  
20 person's signature in the signature roster;

21 (3) the person shall sign his name in the  
22 signature roster;

23 (4) the person shall nevertheless be furnished  
24 a paper ballot, whether or not voting machines are being used at  
25 the polling place, and the election clerk shall write the number

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1 of the ballot so furnished next to the person's signature in the  
2 signature roster; and

3 (5) the person shall be allowed to mark and  
4 prepare the ballot. He shall return the paper ballot to an  
5 election judge who shall announce his name in an audible tone  
6 and in his presence place the required challenge ballot in an  
7 envelope marked "rejected--required challenge" which shall be  
8 sealed. The person's name shall be written on the envelope and  
9 the envelope containing the rejected ballot shall then be  
10 deposited in the ballot box and shall not be counted."

11 Section 13. Section 3-8-47 NMSA 1978 (being Laws 1985,  
12 Chapter 208, Section 55) is amended to read:

13 "3-8-47. CONDUCT OF ELECTIONS--DISPOSITION OF SIGNATURE  
14 ROSTER--MACHINE-PRINTED RETURNS--BALLOT BOXES--ELECTION RETURN  
15 CERTIFICATE--AFFIDAVITS--AND OTHER ELECTION MATERIALS. --

16 A. After all certificates have been executed, the  
17 precinct board shall place one copy of the signature roster and  
18 one copy of the machine-printed returns in the stamped,  
19 addressed envelope provided for that purpose by the municipal  
20 clerk and immediately mail it to the district court.

21 B. The following election returns and materials  
22 shall not be placed in the ballot box and shall be returned by  
23 the precinct board to the municipal clerk in the envelope  
24 provided by the municipal clerk for such purpose:

25 (1) all ballot box keys;

- 1 (2) one signature roster;
- 2 (3) one voter registration list;
- 3 (4) the election returns certificate;
- 4 (5) one copy of the machine-printed returns;

5 [and]

6 (6) a machine cartridge for any electronic or  
7 marksense machine;

8 [~~(6)~~] (7) voting machine permits; and

9 [~~(7)~~] (8) all unused election supplies.

10 C. The locked ballot box containing any paper ballot  
11 cast in the election, election returns and all material listed  
12 in Subsection B of this section shall be returned by the  
13 precinct board to the municipal clerk within twenty-four hours  
14 after the polls close.

15 D. After receipt of ballot boxes and election  
16 returns and materials but not later than twenty-four hours after  
17 the polls close, the municipal clerk shall ascertain whether the  
18 locked ballot box and all the election returns and materials  
19 enumerated in Subsection B of this section have been returned to  
20 the municipal clerk as provided in Subsection C of this section.  
21 If the locked ballot box or all such election returns and  
22 materials are not timely returned by each precinct board, then  
23 the municipal clerk shall immediately issue a summons requiring  
24 the delinquent precinct board to appear and produce the missing  
25 ballot box or election returns or materials within twenty-four

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1 hours. The summons shall be served by a sheriff or state police  
2 officer without cost to the municipality, and the members of the  
3 precinct board shall not be paid for their service on election  
4 day unless the delay was unavoidable. If delivery pursuant to  
5 the summons is not timely made, then the vote in the precinct  
6 shall not be canvassed or made a part of the final election  
7 results except upon order of the district court after finding  
8 that the delay in the delivery of materials was due to forces  
9 beyond the control of the precinct board.

10 E. Once the ballot box is locked, it shall not be  
11 opened prior to canvassing by the municipal clerk. "

12 Section 14. Section 3-8-48 NMSA 1978 (being Laws 1985,  
13 Chapter 208, Section 56) is amended to read:

14 "3-8-48. CONDUCT OF ELECTIONS--EMERGENCY PAPER BALLOTS--  
15 PAPER BALLOTS--ONE TO A VOTER--RECEIPT OR DELIVERY--OCCUPATION  
16 OF VOTING MACHINES. --

17 A. Only one emergency paper ballot or paper ballot  
18 shall be given to each qualified elector entitled to vote. The  
19 ballots shall be delivered to qualified electors entitled to  
20 vote in consecutive order, beginning with the lowest numbered  
21 ballot.

22 B. No qualified elector entitled to vote shall  
23 receive a ballot from any person other than from an election  
24 judge at the polling place where the person is authorized to  
25 vote. No person other than an election judge shall deliver a

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1 ballot to any qualified elector entitled to vote.

2 C. Unless otherwise provided by law, when voting  
3 machines are used as voting booths to mark emergency paper  
4 ballots, they shall not be occupied by more than one person at a  
5 time. A person shall not remain in or occupy such voting  
6 machine longer than is necessary to mark and prepare his  
7 emergency paper ballot, which shall not exceed five minutes.

8 D. The marksense ballot shall be used and completed  
9 in the manner prescribed in Section 1-12-25.1 NMSA 1978 and  
10 returned to the presiding judge who shall place it in a locked  
11 ballot box to be counted when the machine is repaired or  
12 replaced or at the time the polls close. Counting and handling  
13 marksense ballots in emergency situations shall be done as  
14 prescribed for emergency paper ballots. "

15 Section 15. Section 3-8-55 NMSA 1978 (being Laws 1985,  
16 Chapter 208, Section 63) is amended to read:

17 "3-8-55. POST-ELECTION DUTIES--CANVASS--DEFECTIVE RETURNS--  
18 CORRECTION.--

19 A. The municipal clerk shall immediately issue a  
20 summons directed to the precinct board, commanding ~~them~~ it to  
21 appear and make the necessary corrections or supply omissions or  
22 any missing election returns if:

23 (1) it appears on the face of the election  
24 returns that any certificate has not been properly executed;

25 (2) it appears that there is a discrepancy

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1 within the election returns;

2 (3) it appears that there is a discrepancy  
3 between the number of votes set forth in the certificate for all  
4 candidates and the number of electors voting as shown by the  
5 election returns;

6 (4) it appears that there is any omission,  
7 informality, ambiguity, error or uncertainty on the face of the  
8 returns; or

9 (5) it appears that there are missing election  
10 returns.

11 B. If any member or members of the precinct board  
12 fail to appear as required, the municipal clerk shall  
13 immediately issue a summons commanding them to appear. The  
14 summons shall be served by a sheriff or state police officer as  
15 in the manner of civil cases, and for each service a sheriff or  
16 state police officer shall be allowed the same mileage as is  
17 paid in civil cases.

18 C. After issuing the necessary notifications or  
19 summons, the canvass of all correct election returns shall  
20 proceed. "

21 Section 16. Section 3-8-71 NMSA 1978 (being Laws 1985,  
22 Chapter 208, Section 79, as amended) is amended to read:

23 "3-8-71. PRESERVATION OF ELECTION INFORMATION. --

24 A. The municipal clerk shall retain for two years  
25 after each municipal election:

- 1 (1) the absentee ballot register and ballots,  
2 application for absentee ballots, absentee voter lists and  
3 affidavits of destruction;
- 4 (2) the signature roster and registered voter  
5 list;
- 6 (3) the machine-printed returns;
- 7 (4) oaths of office of the precinct board;
- 8 (5) the declarations of candidacy and  
9 withdrawals;
- 10 (6) election resolution;
- 11 (7) proof of all publications;
- 12 (8) copies of all election material required to  
13 be published or posted;
- 14 (9) copies of all [~~paper ballots~~] sample  
15 ballots and ballot labels;
- 16 (10) voting machine permits;
- 17 (11) affidavits of triplicate voter  
18 registration or certificates submitted by voters;
- 19 (12) copies of all affidavits and certificates  
20 prepared in connection with the election;
- 21 (13) certificates of canvass and amended  
22 certificates of canvass, if any;
- 23 (14) all results of recounts, rechecks,  
24 contests and recanvass; and
- 25 (15) all other significant election materials.

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1           B. The district court shall retain for forty-five  
2 days after each municipal election all election materials sent  
3 by the precinct board. Thereafter, the material may be  
4 destroyed unless needed by the court in connection with a  
5 contest or other case or controversy.

6           C. The municipal clerk shall destroy election  
7 records two years after the election by shredding, burning or  
8 otherwise destroying."

9           Section 17. Section 3-8-77 NMSA 1978 (being Laws 1985,  
10 Chapter 208, Section 85) is amended to read:

11           "3-8-77. ELECTIONEERING TOO [NEAR] CLOSE TO POLLING  
12 PLACE--OBSTRUCTING POLLING PLACE--DISTURBING POLLING PLACE--  
13 PENALTY. --

14           A. Electioneering too close to the polling place  
15 consists of any form of campaigning on election day within one  
16 hundred feet of the [~~entrances being utilized for access into~~  
17 ~~the~~] building in which the polling place is located and includes  
18 but is not limited to the display of signs, bumper stickers or  
19 distribution of campaign literature.

20           B. A person who commits electioneering too close to  
21 the polling place is guilty of a petty misdemeanor.

22           C. Obstructing the polling place consists of:

23           (1) approaching nearer than fifty feet from any  
24 polling place during the conduct of the election with the  
25 intention of knowingly interfering with the legal conduct of the

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1 election; or

2 (2) willfully blocking an entrance to the  
3 polling place so as to prevent free ingress and egress.

4 D. A person who obstructs the polling place is  
5 guilty of a petty misdemeanor.

6 E. Disturbing the polling place consists of doing  
7 one or more of the following acts in the building in which the  
8 polling place is located or outside the building in which the  
9 polling place is located on election day:

10 (1) any act which knowingly interferes with or  
11 impedes the legal conduct of the election or the legal  
12 performance of any election official's duties or any act which  
13 unintentionally causes such result if such act is continued  
14 after an election judge orders a person to cease and desist such  
15 activity; or

16 (2) any act which knowingly interferes with or  
17 impedes a person's right to cast a vote in quiet, secret and  
18 orderly surroundings or any act which unintentionally causes  
19 such result if such act is continued after an election judge  
20 orders a person to cease and desist such activity.

21 F. A person who disturbs the polling place is guilty  
22 of a petty misdemeanor. "

23 Section 18. Section 3-8-78 NMSA 1978 (being Laws 1985,  
24 Chapter 208, Section 86) is amended to read:

25 "3-8-78. COERCION OF EMPLOYEES-- PERMITTING PRISONERS TO

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1 VOTE-- [~~OFFENSES~~] MALFEASANCE BY MESSENGERS-- UNLAWFUL USE OR  
2 POSSESSION OF LIQUOR OR ILLEGAL DRUGS-- PENALTY. --

3 A. Coercion of employees consists of any officer or  
4 agent of any corporation, company or association or any person  
5 having supervision over or employing persons entitled to vote at  
6 any election directly or indirectly discharging or penalizing or  
7 threatening to discharge or penalize such employee because of  
8 the employee's opinions or beliefs or because of such employee's  
9 intention to vote or to refrain from voting for any candidate or  
10 for or against any question.

11 B. A person who commits coercion of employees is  
12 guilty of a fourth degree felony.

13 C. Permitting prisoners to vote consists of any  
14 person who has custody of convicts or prisoners taking such  
15 convicts or prisoners or permitting them to be taken to any  
16 polling place for the purpose of voting in any election.

17 D. A person who permits prisoners to vote is guilty  
18 of a petty misdemeanor and shall be punished by a fine of not  
19 less than one hundred dollars (\$100) nor more than five hundred  
20 dollars (\$500), or by imprisonment for not less than thirty days  
21 nor more than ninety days, or both.

22 E. Subsection C and Subsection D of this section do  
23 not prohibit permitting prisoners who are legally qualified to  
24 vote to cast an absentee ballot pursuant to the provisions of  
25 the Municipal Election Code.

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[bracketed material] = delete

1 F. Malfeasance by messengers consists of the willful  
2 delay or failure of any official messenger to convey or deliver  
3 election supplies to the precinct board or municipal clerk, the  
4 willful delay or failure of any official messenger to convey or  
5 deliver the ballot box, key, election returns or other election  
6 materials, documents or supplies to the municipal clerk or  
7 precinct board or the willful delay or failure of any official  
8 messenger to perform as required by any precinct board member or  
9 the municipal clerk who makes a legal demand.

10 G. Any messenger committing such malfeasance is  
11 guilty of a petty misdemeanor.

12 H. Unlawful use or possession of alcoholic liquor or  
13 illegal [~~drug~~] drugs consists of the use or possession of any  
14 alcoholic liquor or illegal drug by any member of the precinct  
15 board, challengers, watchers or the municipal clerk prior to or  
16 while performing official duties on election day. Unlawful use  
17 or possession also consists of the use, possession or carrying  
18 of alcoholic liquor or illegal [~~drug~~] drugs within two hundred  
19 feet of the polling place during any election.

20 I. A person who commits unlawful possession of  
21 alcoholic liquor or illegal [~~drug~~] drugs is guilty of a petty  
22 misdemeanor. "

23 Section 19. Section 3-9-6 NMSA 1978 (being Laws 1973,  
24 Chapter 375, Section 7, as amended) is amended to read:

25 "3-9-6. FORM OF ABSENTEE BALLOT-- FORM OF ABSENTEE BALLOT

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1 ENVELOPES. --

2 A. The form of the absentee ballot shall be, as  
3 nearly as practicable, in the same form as prescribed by the  
4 municipal clerk for emergency paper ballots or paper ballots  
5 used in lieu of voting machines. However, to reduce weight and  
6 bulk for transport of absentee ballots, the size and weight of  
7 the paper for envelopes, ballots and instructions shall be  
8 reduced as much as is practicable. The ballots shall provide  
9 for sequential numbering.

10 B. Absentee ballots and envelopes shall be delivered  
11 by the printer to the municipal clerk not later than thirty-five  
12 days prior to the date of the election to be held.

13 C. The municipal clerk shall prescribe the form of:

14 (1) official inner envelopes for use in sealing  
15 the completed absentee ballot;

16 (2) official mailing envelopes for use in  
17 returning the official inner envelope to the municipal clerk;

18 (3) absentee ballot instructions, describing  
19 proper methods for completion of the ballot and returning it;  
20 and

21 (4) official transmittal envelopes for use by  
22 the municipal clerk in mailing absentee ballot materials.

23 D. Official transmittal envelopes and official  
24 mailing envelopes for transmission of absentee ballot materials  
25 to and from the municipal clerk and federal voters and federal

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1 qualified electors shall be printed in [~~blue~~] red in the form  
2 prescribed by postal regulations and the Federal Voting  
3 Assistance Act of 1955. Official transmittal envelopes and  
4 official mailing envelopes for transmission of absentee ballot  
5 materials to and from the municipal clerk shall be printed in  
6 green in substantially similar form. All official inner  
7 envelopes shall be printed in green.

8 E. The reverse of each official mailing envelope  
9 shall contain a form to be signed by the person completing the  
10 absentee ballot. The form shall identify the person and shall  
11 contain the following statement: "I will not vote in this  
12 election other than by the enclosed ballot. I will not receive  
13 or offer any compensation or reward for giving or withholding  
14 any vote. ". "

15 Section 20. Section 3-9-7 NMSA 1978 (being Laws 1973,  
16 Chapter 375, Section 8, as amended by Laws 1995, Chapter 98,  
17 Section 2 and also by Laws 1995, Chapter 200, Section 7) is  
18 amended to read:

19 "3-9-7. MANNER OF VOTING. --

20 A. Any person voting an absentee ballot under the  
21 provisions of the Municipal Election Code shall secretly mark  
22 the ballot in the manner provided in the Municipal Election Code  
23 for marking emergency paper ballots, remove any visible number  
24 on the ballot, place the ballot in the official inner envelope  
25 and securely seal the envelope. The person voting shall then

1 place the official inner envelope inside the official mailing  
2 envelope and securely seal the envelope. The person voting  
3 shall then fill in the form on the reverse of the official  
4 mailing envelope.

5 B. Federal voters and federal qualified electors  
6 shall either deliver or mail the official mailing envelope to  
7 the municipal clerk of their municipality of residence or  
8 deliver it to a person designated by federal authority to  
9 receive executed ballots for transmission to the municipal clerk  
10 of the municipality of residence. Voters shall either deliver  
11 or mail the official mailing envelope to the municipal clerk of  
12 their municipality of residence.

13 C. Any person voting on the marksense ballot shall  
14 secretly mark the ballot by completing the arrow in pencil  
15 directly to the right of the candidate's name or the proposed  
16 question. The voter shall then place the marked ballot in the  
17 official inner envelope and securely seal the envelope and then  
18 place the official inner envelope inside the official mailing  
19 envelope and securely seal the envelope. The voter shall then  
20 complete the form on the reverse of the official mailing  
21 envelope."

1 FORTY-THIRD LEGISLATURE  
2 FIRST SESSION, 1997  
3  
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5

6 February 27, 1997  
7

8 Mr. President:  
9

10 Your RULES COMMITTEE, to whom has been referred  
11

12 SENATE BILL 1022  
13

14 has had it under consideration and reports same with  
15 recommendation that it DO PASS, and thence referred to the  
16 PUBLIC AFFAIRS COMMITTEE.  
17

18  
19 Respectfully submitted,  
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23 \_\_\_\_\_  
24 Gloria Howes, Chairman  
25

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

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Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Altamirano, Aragon

Absent: None

S1022RU1

Underscored material = new  
~~[bracketed material] = delete~~

1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

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6 March 10, 1997

7  
8 Mr. President:

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10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been  
11 referred

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13 SENATE BILL 1022

14  
15 has had it under consideration and reports same with  
16 recommendation that it DO PASS.

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19 Respectfully submitted,

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23 \_\_\_\_\_  
24 Shannon Robinson, Chairman  
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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

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Date \_\_\_\_\_

The roll call vote was 5 For 2 Against

Yes: 5

No: Boitano, Vernon

Excused: Ingle, Smith

Absent: None

S1022PA1

Underscored material = new  
~~[bracketed material] = delete~~

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 12, 1997

SENATE FLOOR AMENDMENT number \_\_\_\_\_ to SENATE BILL 1022

AMENDMENT sponsored by SENATOR DURAN

1. On page 10, line 21, strike the words "vote tabulating"  
and insert "electronic".

2. On page 33, line 6, strike the word "or".

3. On page 33, line 7, strike the underlined words "marksense  
machine".

4. On page 35, line 8, strike the word "marksense".

Underscored material = new  
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Underscored material = new  
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**Senator Dianna J. Duran**

**Adopted** \_\_\_\_\_

**Not Adopted** \_\_\_\_\_

**(Chief Clerk)**

**(Chief Clerk)**

**Date** \_\_\_\_\_

**S1022FS1**